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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/933,601	08/20/2001	Yevgeniy Eugene Shteyn	US 018130	6763

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EXAMINER

NGUYEN, TRONG NHAN P

ART UNIT	PAPER NUMBER
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2152

DATE MAILED: 01/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/933,601

Applicant(s)

SHTEYN, YEVGENIY EUGENE

Examiner

Jack P Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☒ Claim(s) 8,10-12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claims 1-13 are being examined.

Claim Objections

Claims 8 & 10-12 are objected to because of the following informalities:

- Claim 8 states, "...of claim1..." The claim should state, "...of claim 1..."
- Claims 10-12 are depending claims that talk about a device not a method as claim 8 recites. Therefore, these claims should reference to the independent claim 9. Hence, there are apparent typos in these claims.

Appropriate correction is required.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 13 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claim reads on a software application intended to carry out certain instructions. However, the software application itself cannot carry out these instructions; i.e., it must be put in a physical medium, e.g., computer or electronic device, where the device can execute the software application to carry out these instructions.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 1-4, 6, 9-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Levy, 6,556,997 (Levy hereafter).

As per claim 1, Levy teaches a method of enabling to offer an information distribution service to an individual (abstract), the method comprising: electronically presenting to the individual a plurality of information services of different providers, each service being respectively offered by one or more providers (col. 4, lines 49-52; system {15, fig. 1} presents clients a list of data services from plurality of data providers); receiving a request from the individual for a specific one of the services (col. 4, lines 27-32; system receives requests from clients for data from one of the data providers); and, enabling a selected provider to provide the specific service to the individual (col. 4, lines 52-54; client accesses and retrieves content from desired content provider).

Claim 9 recites similar limitations to claim 1 above; therefore, it is rejected for similar reasons as claim 1.

As per claims 2 and 6, Levy teaches providing the individual with an electronic content distribution interface presenting the services and enabling to identify one or more providers offering one of the services (col. 4, lines 49-52).

As per claims 3 and 10, Levy teaches maintaining a database comprising records associated with the one or more providers offering the specific service (30, fig. 4, col. 5, lines 66 – col. 6, lines 1; services database maintains records of all service providers); creating a profile of the user (20, fig. 4, col. 5, lines 45-47; profiles database creates &

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maintains profile data for all users); and, comparing the records and the profile to determine the selected provider (col. 6, lines 10-13; user can only access data from content provider for which he subscribe; this record is kept in the user's profile).

As per claims 4 and 12, Levy teaches the selected provider is determined on the basis of the geographical location of the individual and a mapping application for determining a new profile of the individual based on a new geographical location and the stored profile of the individual (col. 9, lines 3-13; location specific data (e.g., weather) may reside on a local server; user can specify and request location specific data (weather) in his user profile {col. 5, lines 45-51} via information scheduling server; information scheduling server (15, fig. 1) obtains location-specific data from a local server and delivers this information to the user; user can change or update his geographical information via his profile at anytime when desired {col. 5, lines 64-66}).

As per claim 11, Levy teaches customizing application for configuring a device of the individual to receive the specific service (col. 5, lines 20-24; data is customized and formatted to be sent to receiving device for display. Different devices require different formats of data for display).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Levy, 6,556,997 (Levy hereafter) in view of Ehrlich et al, 6,169,989 (Ehrlich hereafter).

As per claim 5, Levy teaches data portal that is connect to a plurality of content providers as noted in claim 1 above. Levy does not explicitly disclose presenting does not enable the individual to identify the one or more providers offering one of the services. Ehrlich teaches an Internet Service Provider 'ISP' (22, fig. 3) switches the data provider that was previously unknown to the user according to ISP's business relationship (col. 4, lines 63-66). Hence, it would have been obvious to one of ordinary skill in the art to be motivated not to identify the data provider to the user because the vendor can switch to different data suppliers (e.g., promotional advertisements) according to the vendor's changing business relationships without directly impacting the individual user as disclosed in [col. 4, lines 23-29].

Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levy, 6,556,997 (Levy hereafter) in view of Eichstaedt et al, 6,169,989 (Eichstaedt hereafter).

As per claims 7-8, Levy teaches creating a profile of the individual (col. 5, lines 45-47; system creates and maintains user profiles for all users). Levy does not explicitly disclose enabling disclosing part of the profile to other individuals and service is provided to increase market shares. However, Eichstaedt discloses sharing user profile information among users of common interests (col. 7, lines 30-34). Hence, it would have been obvious to one of ordinary skill in the art to be motivated to share user profile information between vendors in a marketing alliance (with common business

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interests) as one of the marketing strategies to expand the vendors' customer base in order to increase market shares among the alliance vendors.


Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Hosea et al, US Pub 2002/0138331; Gooden et al, 6,401,077; Fields et al, 6,128,655; Rangan, 6,412,073; Freishstat et al, 6,567,850 ; Gershman et al, 6,199,099

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack P Nguyen whose telephone number is (571) 272-3945. The examiner can normally be reached on M-F 8:30-5:00 PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached on (571) 272-3949. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


GLENTON B. BURGESS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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1/8/03